

HOUSE BILL REPORT

E2SSB 5405

As Reported by House Committee On:
Early Learning & Human Services
Appropriations

Title: An act relating to extended foster care services.

Brief Description: Concerning extended foster care services.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Murray, Tom, Kohl-Welles, Darneille, Hobbs, Harper and Frockt).

Brief History:

Committee Activity:

Early Learning & Human Services: 3/26/13, 4/2/13 [DPA];
Appropriations: 4/5/13, 4/8/13 [DPA(APP w/o ELHS)].

**Brief Summary of Engrossed Second Substitute Bill
(As Amended by Committee)**

- Expands eligibility criteria to allow a youth to request extended foster care services if the youth has an open dependency case at age 18 and is participating in a program or activity designed to promote employment or remove barriers to employment.
- Requires the court to keep dependency cases open for six months after a youth in foster care reaches age 18 years if the youth meets one of the eligibility criteria for extended foster care.
- Requires the court to dismiss the dependency case of a youth who reaches age 18 and six months who has not requested extended foster care services or is not eligible for extended foster care services.
- Applies the provisions of the act prospectively.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: Do pass as amended. Signed by 8 members: Representatives Kagi, Chair; Walsh, Ranking Minority Member; Farrell, Goodman, MacEwen, Roberts, Sawyer and Zeiger.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass. Signed by 2 members: Representatives Scott, Assistant Ranking Minority Member; Overstreet.

Staff: Linda Merelle (786-7092).

Background:

The Fostering Connections to Success and Increasing Adoptions Act of 2008.

In October 2008 Congress passed the Fostering Connections to Success and Increasing Adoptions Act of 2008. One of the key provisions of the legislation allowed states to use foster care funds to provide extended foster care services to youth between the ages of 18 and 21 who engaged in certain qualifying activities.

Extended Foster Care Services.

Each year in Washington state, more than 500 youth turn 18 while in foster care. In 2011 the Legislature established "extended foster care services," which are defined as residential and other support services that the Department of Social and Health Services (DSHS) is authorized to provide to foster children who have an open dependency case when they turn age 18. The legislation also established a procedure by which youth aging out of foster care could access extended foster care services.

Eligibility Criteria.

Under the legislation enacted in 2011, a youth was eligible for extended foster care services until age 21 while he or she participated in or completed a secondary education program or a secondary education equivalency program. In 2012 the Legislature expanded the eligibility to include youth who were enrolled, or had applied for and demonstrated intent to enroll, in a postsecondary academic or postsecondary vocational program. Extended foster care services include: (1) placement in licensed, relative, or otherwise approved care; (2) supervised independent living settings; (3) assistance in meeting basic needs; (4) independent living services; (5) medical assistance; and (6) counseling or treatment.

Court Procedure.

When a youth in foster care, who has an open dependency case, reaches age 18, his or her parent or guardian is dismissed from the dependency proceeding. After the parent's or guardian's dismissal, the dependency court must postpone for six months the dismissal of the dependency case in its entirety if the youth is enrolled in a secondary or postsecondary education program or a secondary or postsecondary education equivalency program. This six-month postponement allows the youth who is eligible for extended foster care services time to request extended foster care services after turning 18. At the end of the six-month period, if the youth has not requested extended foster care services, the court must dismiss the dependency. The court may also dismiss the dependency if, during the six-month period, the youth is no longer eligible for extended foster care services. The DSHS is relieved of any supervisory duties over a youth who is 18 but has not requested extended foster care services. While a youth receives extended foster care services, he or she is under the care and

placement authority of the DSHS. If a youth requests and is eligible for extended foster care services, the court must appoint counsel for the youth.

Summary of Amended Bill:

Eligibility for Extended Foster Care Services.

To the extent that funds are specifically appropriated for such services, a youth who has an open dependency proceeding upon turning age 18 is eligible for extended foster care services if he or she is: (1) participating in a program or activity designed to promote employment or remove barriers to employment; (2) engaged in employment for 80 hours or more per month; or (3) incapable of engaging in any of these activities due to a medical condition that is documented. These categories are in addition to existing categories of eligibility that allow youth to receive services when participating in a secondary or postsecondary academic or vocational program.

Notification to Youth Regarding Extended Foster Care Services.

Subject to funds specifically appropriated for this purpose, the DSHS must provide a youth in foster care, who is between the ages of 17 and 17-1/2 years old, with written documentation regarding the availability of extended foster care services. Detailed instructions regarding how to access those services upon reaching age 18 must also be included.

Dismissal of Dependency Matters.

If a youth, by the time he or she reaches age 18 years and 6 months, is not participating in any of the activities that would make him or her eligible for extended foster care services, or if the youth does not wish to participate in the extended foster care program, the court must dismiss the dependency case. If no funding has been appropriated for extended foster care services for youth who are participating in a program or activity designed to promote employment or remove barriers to employment, employed for 80 hours or more per month, or incapable of engaging in any of the required activities because of a medical condition, the court must also dismiss the dependency of a youth who has reached the age 18 years and six months.

Foster Care Rates.

The DSHS is authorized to establish foster care rates appropriate to the needs of youth participating in extended foster care.

Amended Bill Compared to Engrossed Second Substitute Bill:

The court must postpone the dismissal of dependency proceedings for youth who reach age 18 years while in foster care or while serving a commitment at the Juvenile Rehabilitation Administration (JRA) regardless of whether the youth is participating in one of the qualifying activities. The court must dismiss the dependency of a youth committed to the JRA if the

youth turned 18 years old while serving the commitment but was not released by the time he or she turned 18-1/2 years old.

Youth receiving extended foster care services may continue to receive them during a transition from a secondary program to a postsecondary program.

The definition of "nonminor dependent" is modified to remove the requirement that the youth had an open dependency case at the time that he or she was committed to the JRA. The definition of "supervised independent living" is modified to allow the DSHS discretion to decide on a case-by-case basis the proper supervised independent living setting for a youth receiving extended foster care services.

The DSHS's authority over a youth receiving extended foster care services does not create a cause of action against the DSHS or its employees for damages caused by a youth receiving extended foster care services.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 6 relating to the definitions of terms regarding the implementation of extended foster care, and section 8 relating to the eligibility criteria for extended foster care services, which take effect December 1, 2013.

Staff Summary of Public Testimony:

(In support) When kids come out of the foster care system without supports in place or skills ready, they end up on the streets. This bill ensures that they do not end up on the streets. The two versions of this bill that are in the House of Representatives (House) and Senate have inconsistent language and internal inconsistencies that will need to be reconciled. The first pilot for extended foster care services was in 2006 and there has been a lot of work since then. Extended foster care services reduce homelessness, engage youth, and keep them off the street. The question is how expansive the program should be. In the Senate version of this bill, all additional groups are opted in. The House bill has only one group, but it would capture about 70 percent of the youth. If Washington provided all available categories for eligibility for extended foster care services, it would be one of the first states in the nation to implement this fully and would allow foster youth to start their adult lives on parity with children who did not enter the dependency system. Ensuring safe housing for foster youth who need it most fulfills a collective responsibility to these young people and makes an investment that will pay dividends long into the future. Investment in a healthy transition into independence will help prevent unhealthy and costly transitions into homelessness, the criminal justice system, or worse. As a tax payer, this is a sound investment. As a citizen, it is a moral imperative. Foster youth enter the child welfare system through no fault of their own, and they should receive the assistance required to leave it healthy and properly prepared to succeed. This bill would help improve outcomes for foster youth. Extending foster care is

one important step to improve the situations of foster youth and reduce the downstream remedial costs in public safety, substance abuse, and mental health. This bill will help in stabilizing their situation and help them get on a trajectory to self-sufficiency.

(With concerns) Both the Senate and House versions of the bill have inconsistent language and inconsistency between the definitions of nonminor dependent. These will need to be worked out.

(Opposed) None.

Persons Testifying: (In support) Senator Murray, prime sponsor; Jim Theofelis, Mockingbird Society; Ed Boyle, Swedish Health Services; and Nick Federici, United Way of King County.

(With concerns) Jennifer Strus, Department of Social and Health Services.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Early Learning & Human Services. Signed by 26 members: Representatives Hunter, Chair; Ormsby, Vice Chair; Alexander, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Carlyle, Cody, Dahlquist, Dunshee, Fagan, Green, Haigh, Harris, Hudgins, Hunt, Jinkins, Kagi, Maxwell, Morrell, Parker, Pedersen, Pettigrew, Schmick, Seaquist, Springer and Sullivan.

Minority Report: Do not pass. Signed by 5 members: Representatives Buys, Haler, Pike, Ross and Taylor.

Staff: Mary Mulholland (786-7391).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Early Learning & Human Services:

Eligibility Criteria for Extended Foster Care Services.

The expansion of extended foster care services to youth who are employed 80 hours or more per month, or are unable to participate in another eligible activity due to a medical condition, is struck.

Youth participating in a program or activity designed to promote employment or remove barriers to employment may be eligible for extended foster care, but this criterion is not subject to specific appropriated funding.

Court Procedure.

When a youth with an open dependency turns age 18, the court must keep the dependency case open for a six-month grace period if the youth meets one of the following eligibility criteria: (1) is enrolled in a secondary education program or a secondary education equivalency program; (2) is enrolled and participating in a postsecondary academic or postsecondary program; or (3) is participating in a program or activity designed to promote employment or remove barriers to employment. The court is not required to keep the dependency open if the youth is not participating in one of the above activities at age 18.

Language addressing dependent youth serving a commitment at a Juvenile Rehabilitation Administration (JRA) facility when they turn age 18 is removed.

Definition of Nonminor Dependent.

The definition of "nonminor dependent" is modified to include youth who are released from a JRA facility and who had an open dependency proceeding at the time of JRA commitment, and who meet statutory eligibility requirements for extended foster care.

Approval of Supervised Independent Living.

Language establishing that the Department of Social and Health Services has the discretion to determine which supervised independent living arrangements are in the best interests of the nonminor dependent is struck.

Liability of the Department.

The clause stating that the provision of extended foster care services does not create a legal cause of action to the state for damages caused by youth receiving those services is removed.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date of Amended Bill: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 6 relating to the definitions of terms regarding the implementation of extended foster care, and section 8 relating to the eligibility criteria for extended foster care services, which take effect December 1, 2013.

Staff Summary of Public Testimony:

(In support) Extended foster care has bipartisan support, and the state has been working on it since 2000. There may be savings to the state when youth who exit foster care at age 18 are safely housed, attending school, and are employed rather than homeless.

The main difference between the Senate and House of Representatives (House) extended foster care bills is that the House bill expands extended foster care to only one of the remaining eligibility categories of youth. There are three remaining categories in total that are currently excluded from extended foster care in Washington, and youth in all three categories should be included. The category of youth facing barriers to employment captures

the most youth. The concern is that if the Legislature expands extended foster care only to this group, it risks a situation where a youth participating in a program to remove barriers to employment can no longer receive services after he or she finds employment.

The Mockingbird Society is working on strategies to draw down more federal matching funds for youth in extended foster care. The role of the Mockingbird Society has been to humanize foster youth to elected officials. The Senate is still looking at other strategies for extended foster care and the Legislature is beginning to run up against the clock as the legislative session draws to a close.

(Opposed) None.

Persons Testifying: Jim Theofelis, The Mockingbird Society.

Persons Signed In To Testify But Not Testifying: None.